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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,158	03/29/2004	Emmanuel Delorme	09736-293001	8473
26191 7590 02/12/2007 FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER ALI, SHUMAYA B	
			ART UNIT 3771	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/12/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/811,158

Applicant(s)

DELORME ET AL.

Examiner

Shumaya B. Ali

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 23-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 36-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/28/04, 5/30/06.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

Claims 1-39 are pending in the application, and claims 23-35 were previously withdrawn without traverse as being drawn to a non-elected species.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. However, Applicant is requested to resend copies of the priority papers where the certified ribbon/seal is visible.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 5/30/06 was filed after the mailing date of the non-final office action on 2/7/06. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Specification***

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

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Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

### ***Response to Arguments***

Applicant's arguments with respect to claim 1-22, and 36-39 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

As to claim 12, the angle being between 100-180 contradicts claim 11, which states that the angle is between 10 and 75 degrees.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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**Claims 1,4,6,7-9,15, and 17-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Zartman US 4,377,157.**

As to **claim 1**, Zartman in figures 1-3 discloses a support body (18) from which there extends at least two upper suspension stabilizers (16) which are disposed on either side of a sagittal plane and have longitudinal axes forming between them an angle greater than 45 degrees, and two lower suspension stabilizers (16) disposed on either sides of the sagittal plane.

As to **claim 4**, Zartman discloses wherein the free ends of the upper stabilizers and of the lower stabilizers are directed downwards (see fig.2)

As to **claim 6**, Zartman discloses wherein the upper stabilizers are arcuate (see fig.3).

As to **claim 7**, Zartman discloses wherein the implant including two middle suspension stabilizers disposed on either sides of the sagittal plane between the upper and lower stabilizers (see fig.2).

As to **claim 8**, Zartman discloses wherein the ends of the upper stabilizer and of the middle stabilizer situated on the same side of the sagittal plane converge substantially toward a common point (see fig.3).

As to **claim 9**, Zartman discloses wherein the longitudinal axes of the lower stabilizers form a non-zero angle between each other (see fig.2).

As to **claim 15**, Zartman discloses wherein the support body is substantially rectangular in general shape (see fig.2).

As to **claim 17**, Zartman discloses wherein the lower stabilizers extend substantially from the lower corners of the support body (see fig.2).

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As to **claim 18**, Zartman discloses wherein the upper stabilizers extend substantially from the upper corners of the support body (see fig.2).

As to **claim 19**, Zartman discloses wherein the lower stabilizers extend from two long sides of the support body (see fig.2).

As to **claim 20**, Zartman discloses wherein each of the lower stabilizers extend at a distance from the top edge of the support body lying in the range 60 to 87 percentages of the length of the support body (see fig.2).

As to **claim 21**, Zartman discloses wherein the upper stabilizers extend from two long sides of the support body (see fig.2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 2,3,5,10-14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zartman US 4,377,157.**

As to claim 2,3,5,10-14, and 16, Zartman discloses the claimed invention as applied for claim 1, however lacks specific lengths and angles between the stabilizers. However, figures 1-3 of Zartman depict that the angles between the pair of upper and lower stabilizers are close to 90 degrees, thereby meets all claimed ranges. With respect to claimed lengths, Zartman teaches length of the stabilizes can vary, for example, when changed from position depicted in figure 3 to position depicted in figure 2. Thus, Zartman's device meets claimed lengths. Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to obtain claimed angles and lengths by adjusting the distance between structures 18 or changing the position of stabilizers from position depicted in figure 2 to figure 3, or vi of Zartman. Therefore, it would have been an obvious matter of design choice to modify Zartman to obtain the invention as specified in claims 2,3,5,10-14, and 16.

#### ***Claim Objections***

Claim 15 is objected to because of the following informalities: the term "general" is vague; Applicant may want to consider deleting the term or replacing the tem with a definite term. Appropriate correction is required.

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*Allowable Subject Matter*

Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 36-39 are patentable over the prior art of record.

*Conclusion*

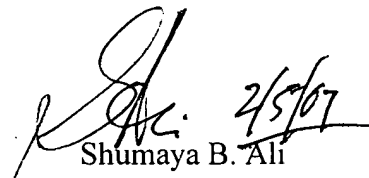
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bullard (US 2,199,690) is cited to teach intravaginal anchoring device.

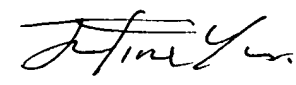
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shumaya B. Ali whose telephone number is 571-272-6088. The examiner can normally be reached on M-W-F 8:30am-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



  
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